Calendar No. 58

100TH CONGRESS
1st Session

SENATE

REPORT
100-18

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1987

MARCH 19 (legislative day, MARCH 17), 1987.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 623]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 623) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1988, 1989, and 1990, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, as reported, would amend certain provisions in the Independent Safety Board Act of 1974 and authorize $26.2 million, $27.5 million, and $28.8 million for the activities of the National Transportation Safety Board (NTSB) for fiscal years 1987, 1988, and 1989, respectively.

BACKGROUND AND NEEDS

The last enacted authorization bill for the NTSB was Public Law 98-37, which authorized funding for fiscal years 1984 through 1986. That authorization expired on September 30, 1986. In the 99th Congress, legislation similar to the Committee-reported bill was unanimously approved by the Congress and sent to the President for his approval. However, it was vetoed, necessitating consideration of this bill.

Since 1983, when the last authorization bill was approved, an unusually large number of accidents in all transportation modes has required NTSB investigation. This, combined with increased budg-

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etary constraints, has caused the NTSB to reassess its operations with a view toward improving economy and efficiency. The bill, as reported, takes into account this reassessment, giving the agency greater flexibility in utilizing its limited resources.

Legislative History

S. 623 was introduced by Senator Ford on March 3, 1987, with Senator Hollings as an original cosponsor. On March 4, 1987, the Aviation Subcommittee held a hearing on S. 623, with testimony from the Chairman of the NTSB. On March 10, 1987, the Committee met in open executive session to consider S. 623, and without objection, ordered S. 623 reported favorably.

Summary of Major Provisions

As reported, S. 623 would:

1. Authorize funding for the NTSB as follows:

Fiscal year 1988, $26.2 million; fiscal year 1989, $27.5 million; fiscal year 1990, $28.8 million.

2. Provide the NTSB with authority for a $1 million emergency fund for use in years where there is an unusual number of accidents and regular funding authority would not be adequate to cover expenses.

3. Delete certain Federal Register notice requirements which are believed to be unnecessary.

4. Redirect tuition funds collected from non-NTSB employees attending accident investigation training courses to NTSB's appropriations in order to offset costs.

5. Require payment, which would be applied to the NTSB's appropriations, from Federal agencies, and State, local, and foreign governments which request assistance with accident investigations.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 13, 1987.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressinal Budget Office has prepared the attached cost estimate for S. 623, the Independent Safety Board Act Amendments of 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich, *Acting Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 623.

3. Bill title: The Independent Safety Board Act Amendments of 1987.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, March 10, 1987.

4. Bill purpose: This bill would authorize the appropriation of $26.2 million, $27.5 million and $28.8 million for fiscal years 1988, 1989, and 1990, respectively, for the National Transportation Safety Board (NTSB). In addition, it would authorize an emergency fund of $1 million to be available for necessary expenses, not otherwise provided for, of the NTSB for accident investigations. The bill would authorize the appropriation of such sums as may be necessary to establish and replenish the fund annually.

Other provisions in this bill would 1) provide that tuition collected from non-NTSB employees attending NTSB training courses will be credited to the Board's appropriation, 2) require payment from federal agencies and state, local and foreign governments for the reasonable cost of goods and services provided by NTSB, with these payments also applied to the Board's appropriation, and 3) eliminate certain Federal Register notice requirements.

5. Estimated cost to the Federal Government:

	1988	1989	1990	1991	1992
Estimated authorization level:					
NTSB authorization	26.2	27.5	28.8		
Replenishment of emergency fund	0.4				
Total estimated authorizations	26.6	27.5	28.8		
Estimated outlays	23.6	27.4	28.7	2.8	

The costs of this bill would fall within budget function 400.

Basis of estimate: In fiscal year 1983, an appropriation of $1 million was provided for the emergency fund authorized by this bill. This unobligated fund balance remained until fiscal year 1985 when $351,000 was obligated from the fund. No additional funds have been obligated since that time. This estimate assumes that $351,000 would be appropriated for fiscal year 1988 to bring the fund balance back to the full authorized amount of $1 million. No outlays are reflected from this appropriation because CBO is unable to predict when conditions will arise requiring use of these funds. The NTSB would be required to consult with the Congress prior to incurring any obligations from the fund.

Based on information provided by NTSB, CBO does not expect payments for goods and services provided to federal agencies or state, local or foreign governments, or for tuition for non-employees attending NTSB training to have a significant budgetary impact.

It is assumed that the full amounts authorized would be appropriated. The outlay estimate is based on the historical spending rates.

6. Financing mechanism: This legislation authorizes funding to be provided in subsequent appropriation bills. This cost estimate shows the amount of budget authority that would be authorized to

be appropriated. The estimated outlays, with the exception noted above, are those that would be generated if the Congress chooses to fund fully the authorized amounts.

7. Estimated cost to State and local governments: As stated above, this bill would require state and local governments to reimburse NTSB for goods and services supplied to them. This is not expected to involve a significant burden for these governments.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Marjorie Miller.

11. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

The bill would not subject any individual or businesses to additional regulation, and therefore would not have any economic impact on such individuals or businesses. By eliminating certain Federal Register notice requirements, the bill would result in a reduction of paperwork requirements. The bill would not have any adverse impact on the personal privacy of individuals.

Section-by-Section Analysis

SECTION 1.—SHORT TITLE

This section states that the short title of the bill is the "Independent Safety Board Act Amendments of 1987".

SECTION 2.—FEDERAL REGISTER NOTICE REQUIREMENTS

This section would eliminate the requirement that a notice of the issuance and availability of NTSB accident investigation reports and recommendations, as well as any comments received in response to them, be published in the Federal Register.

In view of escalating costs and the absence of evidence of significant use by or overriding benefit to the public, the NTSB has twice reduced the scope of its notices since 1974. The Chairman of the NTSB testified at the hearings that no public comments or objections were received following following each reduction. The Committee believes that other, more effective, techniques are being utilized to fulfill the NTSB's public information dissemination requirements, including the issuance of press releases, quarterly summaries of significant publications, and individual safety recommendations, upon request.

The NTSB has estimated that it will save approximately $25,000 annually if this requirement is eliminated.

SECTION 3.—ACCIDENT INVESTIGATION COST RECOVERY

This section enables the NTSB to require payment or other appropriate consideration from Federal agencies and State, local, and foreign governments for the reasonable cost of goods and services supplied in accident investigations. An example of this is the wide-

spread use of the NTSB's laboratory to examine accident data from cockpit voice recorders and flight data recorders. This section provides for the funds received by the NTSB to be applied to current year appropriations.

The Chairman of the NTSB testified that in the past, the NTSB has furnished services such as this without charge to foreign governments and U.S. military forces. The Committee agrees that since these services have an effect on overall NTSB resources, the NTSB should have the authority to recoup these costs, at least in those cases where the agency or U.S. military forces offer to pay for NTSB services.

In another area, the Committee is aware that the NTSB currently is not required to investigate accidents involving aircraft owned or used exclusively by Federal, State, or local governments. However, upon request, the NTSB will assist in the investigation of such public use aircraft. A recent example of this was the NTSB's participation in the 1986 accident of the *Challenger* space shuttle.

The NTSB has argued that given current budgetary limitations, it may be required to abandon these types of activities. The Committee believes that the NTSB's contributions are needed and has provided the NTSB with the authority to provide its services at a reasonable cost, with the funds recovered being applied to the agency's appropriations.

SECTION 4.—ACCIDENT INVESTIGATION TRAINING TUITION FEES

This section provides the NTSB with the authority to collect fees from non-NTSB students who are taking accident investigation courses offered by the NTSB, and apply those funds to its annual appropriations, in order to defray the costs involved in training these additional students.

The NTSB conducts an accident investigation school at the Transportation Safety Institute at Oklahoma City, OK. The primary purpose of the school is to train NTSB employees in accident investigation techniques and methodology. However, the NTSB has found it difficult to convene enough NTSB employees to justify offering certain training courses on a regular basis. Consequently, it has allowed foreign, State, and local government and transportation industry officials to attend its courses, in order that they may be held more frequently.

The Chairman of the NTSB testified that the NTSB does not allow more than 50 percent non-NTSB participation at the training courses. While the Committee believes that this authority is needed to help the NTSB defray the cost of these students, it also feels strongly that that percentage should not be increased. The training school is intended principally for training NTSB employees, not as a source of outside revenue.

The NTSB has testified that it will receive approximately $75,000 annually under this provision, which is about one-third of the direct costs necessary to run the school. Under this provision, funds received by the NTSB may be credited to appropriations at the time expenditures are to be or have been paid, or at the time they are received.

SECTION 5.—PUBLIC ACCESS TO SAFETY RECOMMENDATIONS

This section ensures that copies of individual safety recommendations issued by the NTSB, and the responses received as a result of those recommendations, are available to the public at reasonable cost on request from the NTSB.

SECTION 6.—GENERAL AND EMERGENCY AUTHORITY

This section authorizes funding for the NTSB at levels of $26.2 million for fiscal year 1988, $27.5 million for fiscal year 1989, and $28.8 million for fiscal year 1990. These amounts do not provide for any new program initiatives, but will cover the effects of inflation and other unavoidable cost increases in the out-years, and assume a continuation of a 347 full-time equivalent staff level.

Late in 1986, the 99th Congress unanimously approved legislation authorizing appropriations for the NTSB. On November 4, 1986, the President vetoed that bill, claiming that the funding levels for the NTSB were excessive. At the same time he vetoed that bill, the President reaffirmed his commitment to ensuring safe transportation.

S. 623 would provide for the same funding levels as were sent to the President last year, except that they have been revised slightly upward to account for the recent Federal pay raise and the costs of the Federal Employees Retirement System program. The Committee believes that these represent the minimum authorization levels that are needed for the NTSB to accomplish its critical responsibilities. Funding levels that drop below those provided for in this bill will necessitate reductions in accident investigations and safety recommendations, the result of which, the Committee believes, would be reduced transportation safety. This was confirmed during subcommittee hearings when the Chairman of the NTSB testified that since the level requested is a minimum level, "we cannot operate below that level without sacrificing essential activities, including reduction in the scope of accident investigations and safety promotion activities."

This section also provides the NTSB with authority for a $1 million emergency fund, to remain available until expended, to allow the NTSB to meet its accident investigation responsibilities in years when there is an unusually large number of accidents and general authorization levels are not adequate.

This provision will provide the necessary authority for the replenishment of the emergency fund, which was created by Congress in 1982. The NTSB did not find it necessary to draw upon these funds until 1985, when funds were used to assist in the recovery of an Air India Boeing 747 aircraft that crashed off the coast of Ireland. This provision will provide the necessary authority to continue this emergency fund, which can be used for accident investigation only, and to allow for its replenishment, when needed.

Whenever the NTSB determines that it is necessary to draw upon this emergency fund, this section requires notification of the appropriate committees of Congress, identification of the activity for which sums will be expended, justification for using such sums for such activity, and reasons why such activities could not be per-

formed under the amounts made available by regular authorization and appropriations of funds.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE INDEPENDENT SAFETY BOARD ACT OF 1974

Section 304 of that Act

GENERAL PROVISIONS

SEC. 304. (a) DUTIES OF BOARD.—The Board shall—

(1) * * *

(2) report in writing on the facts, conditions, and circumstances of each accident investigated pursuant to paragraph (1) of this subsection and cause such reports to be made available to the public at reasonable cost [and to cause notice of the issuance and availability of such reports to be published in the Federal Register];

(3)–(9) * * *

(b) POWERS OF BOARD.—(1)–(5) * * *

(6) The Board is authorized to (A) use, on a reimbursable basis or otherwise, when appropriate, available services, equipment, personnel, and facilities of the Department of Transportation and of other civilian or military agencies and instrumentalities of the Federal Government; (B) confer with employees and use available services, records, and facilities of State, municipal, or local governments and agencies; (C) employ experts and consultants in accordance with section 3109 of title 5, United States Code; (D) appoint one or more advisory committees composed of qualified private citizens or officials of Federal, State, or local governments as it deems necessary or appropriate, in accordance with the Federal Advisory Committee Act (5 U.S.C. App. I); (E) accept voluntary and uncompensated services notwithstanding any other provision of law; (F) accept gifts or donations of money or property (real, personal, mixed, tangible, or intangible; [and] (G) enter contracts with public or private nonprofit entities for the conduct of studies related to any of its functions; *and (H) require payment or other appropriate consideration from Federal agencies and State, local, and foreign governments for the reasonable cost of goods and services supplied and to apply the payment or consideration received to the Board's appropriations.*

(7)–(9) * * *

(10)(A) The Board may conduct a school or schools for the purpose of training employees of the Board in those subjects necessary for the proper performance of all authorized functions of the Board. The Board may also authorize attendance of other governmental personnel, personnel of foreign governments or personnel from the transportation industry at courses given in such school or schools, except that, if the attendance of such persons increases the cost of

operation of such school or schools, the Board may require the payment or transfer of sufficient funds or other appropriate consideration to offset such increased costs. In providing any training to employees of the Board or other agencies of the Federal Government, the Board shall be subject to the provisions of chapter 41 of title 5, United States Code.

(B) Funds received by the Board under this paragraph shall be credited—

(i) to appropriations current at the time the expenditures are to be or have been paid;

(ii) to appropriations current at the time such funds are received; or

(iii) in part, as provided under clause (i) and in part, as provided under clause (ii) of this subparagraph.

[(10)] *(11)* Establish such rules and regulations as may be necessary to the exercise of its functions.

(c)-(d) * * *

Section 307 of that Act

RESPONSE TO BOARD RECOMMENDATIONS

SEC. 307. (a) Whenever the Board submits a recommendation regarding transportation safety to the Secretary, he shall respond to each such recommendation formally and in writing not later than 90 days after receipt thereof. The response to the Board by the Secretary shall indicate his intention to—

(1) initiate and conduct procedures for adopting such recommendation in full, pursuant to a proposed timetable, a copy of which shall be included;

(2) initiate and conduct procedures for adopting such recommendation in part, pursuant to a proposed timetable, a copy of which shall be included. Such response shall set forth in detail the reasons for the refusal to proceed as to the remainder of such recommendation; or

(3) refuse to initiate or conduct procedures for adopting such recommendation. Such response shall set forth in detail the reasons for such refusal.

[The Board shall cause notice of the issuance of each such recommendation and of each receipt of a response thereto to be published in the Federal Register, and shall make copies thereof available to the public at reasonable cost.] *The Board shall make copies of each such recommendation and response to each such recommendation available to the public at reasonable cost.*

(b) * * *

Section 309 of that Act

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. *(a) GENERAL AUTHORIZATION.*—There are authorized to be appropriated for the purposes of this Act not to exceed $12,000,000 for the fiscal year ending June 30, 1975; and $12,000,000 for the fiscal year ending June 30, 1976, such sums to remain available until expended. There are authorized to be appropriated for the purpose of this Act not to exceed $3,800,000 for the

transition quarter ending September 30, 1976, $15,200,000 for the fiscal year ending September 30, 1977, and $16,400,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed $16,420,000 for the fiscal year ending September 30, 1979, and $17,650,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed $18,540,000 for the fiscal year ending September 30, 1981, $19,925,000 for the fiscal year ending September 30, 1982, and $22,100,000 for the fiscal year ending September 30, 1983, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed $22,600,000 for the fiscal year ending September 30, 1984, $24,500,000 for the fiscal year ending September 30, 1985, and $26,100,000 for the fiscal year ending September 30, 1986, such sums to remain available until expended. *There are authorized to be appropriated for the purposes of this Act not to exceed $26,200,000 for the fiscal year ending September 30, 1988, $27,500,000 for the fiscal year ending September 30, 1989, and $28,800,000 for the fiscal year ending September 30, 1990, such sums to remain available until expended.*

(b) EMERGENCY FUND.—An emergency fund of $1,000,000 is authorized for expenditure by the Board to be available for necessary expenses, not otherwise provided for, of the Board for accident investigations. There is authorized to be appropriated such sums as may be necessary to establish such emergency fund and to replenish such fund annually. Such sums shall remain available until expended. Whenever the Board determines to expend any sums in the emergency fund, the Board shall notify the appropriate committees of the Congress of such determination, together with an identification of the activity for which sums will be expended, a justification for using such sums for such activity, and reasons why such activity could not be performed under the amounts made available by any act providing annual authorization and appropriations of funds provided for other activities of the Board.

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